No. 80-555

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1980

J. ALEX COTA,

Petitioner,

vs.

COUNTY OF LOS ANGELES, et al.,

Respondents.

Opposition to Petition for a Writ of Certiorari to the Court of Appeal of the State of California, Second Appellate District, Division One

JOHN H. LARSON
County Counsel

TERRY C. SMITH
Division Chief
Real Property Division

PAUL T. HANSON
Deputy County Counsel

648 Hall of Administration
500 West Temple Street
Los Angeles, California 90012
(213) 974-1822

Attorneys for Respondents

QUESTION PRESENTED

Does the mere re-construction (as opposed to operation or use), of a juvenile hall damaged by earthquake, by the County of Los Angeles, constitute an illegal expenditure of public funds under federal law or the Constitution of the United States?

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MEMORANDUM IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI

Respondents, County of Los Angeles, Peter F. Schabarum, Kenneth Hahn, Edmund D. Edelman, James A. Hayes, and Baxter Ward, members of the Board of Supervisors of Los Angeles County, request that this petition for a writ of certiorari be denied.

STATEMENT OF THE CASE AND MEMORANDUM IN OPPOSITION TO PETITION FOR CERTIORARI

The author of this response has been the deputy county counsel primarily responsible for this case from filing, through trial, and through appeal.

Of the original plaintiffs, only Mr. Cota has appealed from the judgment of the trial court denying injunctive relief against expenditure for re-construction of the juvenile hall. Appendix (hereafter "A") 2.

This action was tried only under California Code of Civil Procedure, §526a, by plaintiff-taxpayers to enjoin the expenditure of public funds for the re-construction of Sylmar Juvenile Hall, in Los Angeles County, after damage by earthquake, on the grounds of illegal and wasteful expenditure of public funds.

At the time of trial the facility was only about 50 per cent completed. A. 2, 10.

The complaint did not seek an injunction of the operation of the juvenile hall. At the close of their final argument counsel for plaintiffs moved to amend their complaint to include an injunction of operation and use. This motion was denied. A. 4, 11-12.

The structure is now finished and in operation. A. 5-6. Evidence of operation and use

was excluded from the trial record on the ground of relevance. A. 4, 11-12.

The trial court did not rule in any way that operation and use of the structure were in accord with federal law and the U.S. Constitution.

As pertains to the jurisdiction of this Court, the trial court ruled only that construction of the facility did not violate federal law or the U.S. Constitution.

A finding of illegality of a public expenditure, under federal law or the U.S. Constitution, would have been a ground for granting an injunction under California Code of Civil Procedure, §526a.

Future operation and use of Sylmar Juvenile Hall were not sought to be enjoined by the plaintiffs in their complaint. A. 4.

Operation and use, as opposed to construction. never became issues in the trial. A. 4, 11-12.

Petitioner cites no authority for the proposition that the expenditure of public funds for the re-construction of this juvenile hall, damaged by an earthquate in 1971, is illegal under federal law or the U.S. Constitution.

Just as the complaint was never modified to include future operation and use of the facility, plaintiffs never sought to reduce the scope of the injunction as to expenditure for re-construction.

Throughout the trial plaintiffs sought to completely and permanently halt re-construction work although the work was about 50 per cent completed and seven million dollars had already been paid to the contractor.

They never sought to simply modify the plans of re-construction but always sought a permanent injunction of expenditures for the entire facility: the courtrooms, the classrooms, the gym, the swimming pool, the kitchen, the medical facility, the chapel, the laundry, the grounds, the athletic fields, and the living spaces for the wards.

No known case in any jurisdiction has held that mere construction of a juvenile hall, as opposed to operation and use, may violate the U.S. Constitution.

Because of the doctrine of federalism, the federal congress does not have the power to regulate construction of juvenile halls by sub-divisions of the states. In any case, no federal law purports to regulate construction of juvenile halls by cities and counties.

Since this case was only about re-construction of a juvenile hall, damaged by an earthquake, this court should deny the petition for certiorari because the challenged expenditures were not illegal under federal law or the U.S. Constitution,

and were clearly within the authority of the local government or the State of California.

Respectfully submitted,

JOHN H. LARSON
County Counsel

TERRY C. SMITH
Division Chief,
Real Property Division

PAUL T. HANSON
Deputy County Counsel

Attorneys for County of
Los Angeles, et al.